



STATE OF CALIFORNIA

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September 2, 2010

Dear Interested Party:

Attached is a copy of Current Legal Digest (CLD) Number 1078 for your information and review. This CLD contains new annotations, proposed revisions to existing annotations and deletions of annotations that no longer represent the opinion of the Board of Equalization's legal staff. After reviewing, please submit any questions, comments, or suggestions for changes by October 1, 2010. You may complete the electronic CLD Comments Form at <http://www.boe.ca.gov/sutax/cld/cldmail.htm>, or mail your written comments to:

Board of Equalization
SUTD Annotation Coordinator, MIC: 50
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Please note, the new annotations and/or suggested revisions of existing annotations contained in the attached CLD are drafts and may not accurately reflect the Board's official position on certain issues nor reflect the language that will be used in the final annotation.

CLD's are circulated for 30 days, at which time any questions are addressed and/or suggested modifications taken into consideration. After review of the final version by the Board's Legal Division, they are printed in the *Business Taxes Law Guide*. At that time, the CLD becomes obsolete.

Randy Ferris,
Assistant Chief Counsel
Tax & Fee Programs Division

Attachment: Current Legal Digest 1078

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CALIFORNIA STATE BOARD OF EQUALIZATION

CURRENT LEGAL DIGEST NO. 1078

September 2, 2010

Delete Annotation 105.0230, **Sale of Part of an Aircraft** (4/28/86) because there is no backup letter to support this annotation.

Delete Annotation 110.0030, **Bullfrogs** (1/25/63) because there is no backup letter to support this annotation.

Delete Annotation 110.0070, **Fastrack** (10/18/90) because there is no backup letter to support this annotation.

Delete Annotation 110.0072, **Feedstore** (10/18/90) because there is no backup letter to support this annotation.

Delete Annotation 110.0220, **Race Horses** (9/1/53) because there is no backup letter to support this annotation.

Delete Annotation 135.0300, **Occasional Sales** (6/3/69) because there is no backup letter to support this annotation.

Revise annotation 170.0001 **Bankruptcy Effect on Ten-Year State Tax Lien**. The amount of any unpaid or underpaid tax, which has become due and payable as that term is defined in section 6757, becomes a perfected and enforceable state tax lien on the date it becomes due and payable. The lien remains in effect for ten years. ~~Unless a Notice of State Lien is filed or recorded during that ten-year period, the Board loses its power to collect the tax upon expiration of the ten-year period.~~ If the taxpayer declares bankruptcy during the period, time continues to run for expiration of the lien. If the 10-year period has not expired when the taxpayer emerges from bankruptcy, the Board has the remainder of the period, or a 30-day period, whichever is longer, to file a Notice of State Tax Lien. If the 10-year period has expired, the Board still has a 30-day period within which to file the Notice. 12/21/94. [\(Am. 2010-2\)](#).

Revise annotation 170.0067 **Release of Liens**. Unpaid or underpaid tax, which has been “determined,” becomes due and payable on the date the determination becomes final. On that date, pursuant to Revenue and Taxation Code (RTC) section 6757, the amount of the determination, including interest, penalties, and other costs, becomes a perfected and enforceable state tax lien. This statutory lien remains in effect for ten years, after which ~~the Board loses its power to collect the tax it expires~~, unless a ~~Notice~~notice of ~~State-state Tax-tax Lien-lien~~ is filed or recorded within that period.

RTC ~~Section-section~~ 7097(a) requires that the taxpayer be given written preliminary notice 30 days prior to the filing of the lien. However, failure to give such notice does not invalidate the lien nor does it create authority for the Board to release the lien. The Board’s authority to release a recorded lien is contained in sections 6740 and 7097, and the Board’s failure to give the required notice is not a reason for release. 12/14/94. 11/3/08.

175.0013 Attending Trade Shows – Pre and Post Activities. Reasonable time spent merely setting up (or tearing down) a display at the site where a public trade show is to occur (or has occurred) does not count toward the 15-day safe harbor for trade show activities provided by Section 6203, subdivision (e). Nor would such mere set-up (or tear-down) activities, by themselves, cause a trade show participant to become a retailer engaged in business in this state under paragraphs (c)(1) and (c)(2) of Section 6203. However, if trade show participants engage in dealer-to-dealer business activities during set-up (or tear-down) days, these days would count toward the 15-day safe harbor because such dealers would be participating in a private trade show in advance of (or after) the public trade show. If dealers conduct activities in California in addition to mere set-up (or tear-down) activities before (or after) trade shows that would cause them to become retailers engaged in business in this state, such retailers would have a California use tax collection obligation. (See Rev. & Tax. Code, § 6203, subd. (c).) A use tax collection obligation would also result if any dealer conducts activities outside the scope of trade show activities (e.g., off-site activities) that would cause that dealer to become a retailer engaged in business in this state, even if such activities occurred on trade show days. (See Rev. & Tax. Code, § 6203, subds. (c), (e).) (1/19/10).

Delete Annotation 360.0160, **Meals at Children’s Camps** (11/9/51) because it has been fully incorporated into Regulation 1506.

Revise annotation 360.1000, **Summer Camps**. A summer camp operated by the ~~Diabetic Youth~~ [B] Foundation provides diabetic children with the opportunity to develop self reliance, increase

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their knowledge of diabetes management, and enjoy the camping experience. Approximately 1/3 of the children receive financial subsidy from voluntary donations. The following factors are pertinent to transactions involving the camp. (1) The Foundation qualifies for the “welfare exemption,” but the camp does not make, assemble, or prepare any items. (2) The camp conducts regularly scheduled classes in a structured and formal manner covering a variety of topics regarding including diabetes monitoring and control, with attendance required of the campers. The classes are taught by qualified instructors consisting of physicians, nurses, and dietitians. (3) Employees’ meals are credited toward meeting the wage requirements. (4) The camp store pays tax on all purchases of taxable toiletries and sundries, and sells them at cost.

Based on the above, (1) the camp is not a charitable institution qualifying for the exemption described in Regulation 1570(a), (2) ~~the~~ sales of employees’ meals are taxable, (3) the camp qualifies as a school making exempt sales of meals to “student” campers, (4) ~~sales from the camp store are taxable but a credit may be taken~~ the camp may take a deduction for the cost of tax-paid ~~cost of the items~~ property resold, and (5) the camp is a retailer and should obtain a seller’s permit and issue resale certificates to suppliers of items to be resold to the campers. 8/11/86.

Delete Annotation 390.0130, **Student Body Organizations** (3/17/89) because the backup letter does not provide an explanation for the rule stated in the annotation.

Delete Annotation 425.0214, **Blood Collection Supplies** (3/25/98) because the annotation is inconsistent with the provisions of RTC section 33.

Delete Annotation 495.0050, **Blood and Tissue Banks** (1/20/06) because the annotation is inconsistent with the provisions of RTC section 33.

495.0051 **Blood and Tissue Banks.** Revenue and Taxation Code section 33 provides that “Human whole blood, plasma, blood products, and blood derivatives, or any human body parts held in a bank for medical purposes, shall be exempt from taxation for any purpose.” Section 33’s requirement that property be held in a bank for medical purposes applies only to human body parts and does not apply to human whole blood, plasma, blood products, or blood derivatives, even when the sale is made by an entity other than a licensed blood bank.

For purposes of section 33, “human body parts” means any portion or part of the human body, including any human cell, group of cells, tissue or organ, eye, bones, skin, arteries, sperm, blood,

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other fluids, and any derivative portions thereof, including, for example, proteins (inclusive of enzymes). "Bank" means a facility that lawfully exists as a repository for human body parts, including any facility operated as a medical, research, or scientific institution that lawfully maintains inventories of human body parts. "Medical purposes" includes autopsy, biopsy, training, education, or other diagnostic, investigation or research activities, in support of medical science. (6/18/2010)

Delete Annotation 540.0315, **Human Proteins and Enzymes** (1/20/06) because the annotation is inconsistent with the provisions of RTC section 33.

Delete Annotation 550.0268, **Sales of Meals Below Cost** (2/28/80) because the legal opinion was superseded by court decision.

Delete Annotation 550.1434, **Student Meals** (2/17/93) because the annotation is incorrect per Regulation 1506.

Delete Annotation 580.0313, **Registration with DMV Equivalent to Filing a Use Tax Return** (1/10/96) because the annotation is incorrect.

Delete Annotation 702.1010, **Reallocations – Limitation Period** (5/29/95; 1/7/97) because the annotation has been superseded by procedures in Regulation 1807.

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